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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,308	08/05/2003	Alfredo Lavin Sasian	SSC-110-A	7866

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/634,308

Applicant(s)

SASIAN, ALFREDO LAVIN

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Mexico on 7/11/03. It is noted, however, that applicant has not filed a certified copy of the PA/U/2003/000166 application as required by 35 U.S.C. 119(b).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "lid" (claim 5) and the "diagonal slot" (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because it contains legal phraseology, e.g., "characterized" and "said". Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a

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nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

4. Claims 1-6 are objected to because of the following informalities below.

Appropriate correction is required.

In claim 1, the transitional phrase between the preamble and the body of the claim is not clear. In this case, the phrase "... characterized because it consists of ..." is confusing, in that, it is not clear if applicant intends this to be an open ended or closed end transitional phrase because of the use of the term "consists". For the purposes of this office action the transitional phrase has been considered opened end.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In light of the specification and drawings, it is not clear how the front wall includes a slot nor is it clear how the slot incorporates an opposite facing slope to that of the ramp. That is, the drawings do not shown any opposite facing sloped slot and it is not

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clear what this means. How is the slot sloped? Also, it appears from the drawings that the slot is formed below the front wall not *on* the front wall.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is not positive antecedent basis for "the inner base", "the front wall", "the inner edge", "the slot", "the perforated line", "the adjoining bags" and "the outer bag". The period on line 7 is improper, in that, it is not clear if the following sentence "Said ... inside" is part of claim 1 or not because claims are required to be a single sentence in length. The expression "its" on the last line is confusing, in that, it is not clear if it is referring to the support, base or to the box. It is assumed that it is the vertical tubular support for purposes of this action.

In claim 2, the phrase "the central part" appears to lack antecedent basis. The phrase "... of equal of distinct dimensions, in order to accommodate the rolls of bags whos dimensions correspond to their respective compartments" is confusing, in that, it is not clear if the compartments are of equal dimensions or of different dimensions

In claim 3, the phrase "the central base" appears to lack antecedent basis.

In claim 4, the phrase "the floor" appears to lack antecedent basis. The phrase "... incorporating a heavier base" is confusing, in that, it is not clear what the base is heavier than.

In claim 6, the phrase "... placed in such a way that when putting the together..." is confusing, in that, it is not clear what is put together.

The claims should be reviewed for further instances of vague and indefinite phrases and revised as necessary since the above are only some examples of indefiniteness in the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kannankeril et al., U.S. Patent 5,573,168 in view of Simhaee, U.S. patent 6,230,953, and Woodman, U.S. Patent 642,231.

Kannankeril et al. discloses the same invention as claimed including, e.g., a box (10) with a forward sloping ramp (15) at the inner base (15) of the box and four outer walls (12, 18, 16, 14, 20, 26, see Figures 1-2 and 6), the walls creating an inner compartment capable of holding bags as shown in Figure 1, an inner slot (35) on a front wall (20/26) with an oppositely facing slope and a centrally placed hook (44).

Kannankeril et al. lacks the tubular vertical piece support fixed to a base for supporting the dispenser; however, Simhaee discloses that it is old and well known in the art to use tubular vertical pieces (40) with bases (see the connection bracket shown in Figure 9) for the purposes of conveniently supporting and locating the bag dispenser

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throughout a stores such that the dispenser can be relocated when needed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the device of Kannankeril et al. with a vertical tubular piece and base in order to support and locate the dispenser when needed.

In the alternative, even if it is argued that the modified device of Kannankeril et al. lacks the base for supporting the vertical tubular support, Woodman discloses that it is old and well known in the art to use vertical tubular supports (6) with floor bases (5), wherein the tubular piece is mounted to the base eccentrically (see Figure 2) for the purpose of stability supporting and allowing relocation of a bag holder. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a floor base with the modified device of Kannankeril et al. in order to facilitate movement of the stand from place to place while stability supporting the bag holder.

It should be noted that the claim does not set forth what a forward direction is and therefore, the above defined ramp is forward sloping. The expression "the inner base" has been considered a location not structural element. It should be noted that the phrase "oppositely facing slope" does not necessarily mean the slot is slope but rather that the slot is facing the slope oppositely. It can be said the slot opening is facing back in the direction of ramp and therefore, oppositely facing the slope.

As to claim 4, the modified device of Kannankeril et al. discloses the invention substantially as claimed including fixing the base to the floor (that is the base is sat on the floor) or the base is heavier than a single bag.

As to claim 5, the modified device of Kannankeril et al. discloses the use of a lid (22) that is openable and closeable.

As to claim 6, the modified device of Kannankeril et al. discloses the invention substantially as claimed except for the diagonal slot at the upper end of the tubular piece such that the box leans do to the connection between the diagonal slot and the box. However, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a diagonal slot in the base for the mounting bracket of the modified device of Kannankeril et al. as shown in Figure 9 of Simhaee because Applicant has not disclosed that diagonal slot provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either box mounting because they perform the same function of mounting the box to the tubular support at an angle. Therefore, it would have been an obvious matter of design choice to modify the modified device of Kannankeril et al. to obtain the invention as specified in claim 6.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kannankeril et al. in view of Simhaee and Woodman as applied to claim 1 above, and further in view of Wilfong, Jr. et al., U.S. Patent 5,207,368.

The modified device of Kannankeril et al. discloses the invention substantially as claimed except for the at least one inner dividing wall for creating at least two compartments of distinct dimensions capable of accommodating rolls of corresponding sized bags, and an equal number of hooks. However, Wilfong, Jr. et al. discloses that it

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is old and well known to use bag dispensers with multiple compartments separated by dividing walls and with separate bag separating slots as shown in Figures 3 and 4 for the purpose of facilitating the dispensing of multiple sized bags. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use multiple bag compartments and hooks with the modified device of Kannankeril et al. in order to facilitate the dispensing of different types of bags.

The phrase "of equal of distinct dimensions" has been considered as different sized compartments as it is not clear what applicant intended as stated above.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

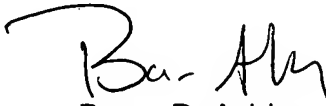
The references cited but not relied upon are to show similar devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
February 22, 2005